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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 TARA GRANT,

7 Plaintiff,

8 v.

9 COMMISSIONER OF SOCIAL SECURITY,

10 Defendant.  
11

Case No. 2:21-cv-00422-DJA

**ORDER**

12 This matter is before the Court on Plaintiff Tara Grant's Motion/Application to proceed *in*  
13 *forma pauperis* submitted on April 2, 2021. (ECF No. 5). The application has sufficiently shown  
14 an inability to prepay fees and costs or give security for them. Accordingly, the application to  
15 proceed *in forma pauperis* will be granted pursuant to § 1915. The Court will now review  
16 Plaintiff's complaint. (ECF No. 1-1).

17 When a party seeks permission to pursue a civil case *in forma pauperis*, courts will screen  
18 the complaint. *See* 28 U.S.C. § 1915(e). With respect to social security appeals specifically, judges  
19 in this District have outlined some basic requirements for complaints to satisfy the Court's  
20 screening. First, the complaint must establish that administrative remedies were exhausted pursuant  
21 to 42 U.S.C. § 405(g), and that the civil action was commenced within 60 days after notice of a  
22 final decision. Second, the complaint must indicate the judicial district in which the plaintiff  
23 resides. Third, the complaint must state the nature of the plaintiff's disability and when the plaintiff  
24 claims to have become disabled. Fourth, the complaint must contain a plain, short, and concise  
25 statement identifying the nature of the plaintiff's disagreement with the determination made by the  
26 Social Security Administration and show that the plaintiff is entitled to relief. *See, e.g., Graves v.*  
27 *Colvin*, 2015 WL 357121, \*2 (D. Nev. Jan. 26, 2015) (collecting cases).  
28

1 The Court has reviewed Plaintiff's Complaint (ECF No 1-1) and finds that the requisite  
2 elements outlined above have been adequately pled to survive screening and proceed with the  
3 case.

4 As for Plaintiff's Motion for Appointment of Counsel (ECF No. 4), civil litigants do not  
5 have a Sixth Amendment right to appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353  
6 (9th Cir. 1981). In very limited circumstances, federal courts are empowered to request an  
7 attorney to represent an indigent civil litigant. For example, courts have discretion, pursuant to  
8 28 U.S.C. § 1915(e)(1), to "request" that an attorney represent indigent civil litigants upon a  
9 showing of "exceptional circumstances." *Ageyman v. Corrections Corp. of America*, 390 F.3d  
10 1101, 1103 (9th Cir. 2004). The circumstances in which a court will make such a request,  
11 however, are exceedingly rare and require a finding of extraordinary circumstances. *United*  
12 *States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986). The difficulties inherent in  
13 proceeding pro se do not qualify as exceptional circumstances. *Housewright*, 900 F.2d 1332,  
14 1335-1336 (9th Cir. 1990). Any pro se litigant "would be better served with the assistance of  
15 counsel." *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (citing *Wilborn*, 789 F.2d at  
16 1331).

17 To determine whether the "exceptional circumstances" necessary for appointment of  
18 counsel are present, courts evaluate (1) the likelihood of plaintiff's success on the merits and (2)  
19 the plaintiff's ability to articulate his claim *pro se* "in light of the complexity of the legal issues  
20 involved." *Agyeman*, 390 F.3d at 1103 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th  
21 Cir. 1986)). Neither of these factors is dispositive and both must be viewed together. *Wilborn*,  
22 789 F.2d at 1331. Here, the Court does not find any exceptional circumstances. Upon review of  
23 Plaintiff's Complaint and supporting documents, it is not clear that Plaintiff's claims are likely to  
24 succeed on the merits. Further, the claims, such as they are, are not complex.

25 **IT IS THEREFORE ORDERED** that Plaintiff's Application for Leave to Proceed *in*  
26 *forma pauperis* (ECF No. 5) is **GRANTED** with the caveat that the fees shall be paid if recovery  
27 is made. At this time, Plaintiff shall not be required to pre-pay the filing fee.  
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1           **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to  
2 conclusion without the necessity of prepayment of any additional fees or costs or the giving of a  
3 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the  
4 issuance of subpoenas at government expense.

5           **IT IS FURTHER ORDERED** that the Clerk of Court shall file the Complaint (ECF No  
6 1-1) after redacting her social security number.

7           **IT IS FURTHER ORDERED** that the Clerk of Court shall serve the Commissioner of  
8 the Social Security Administration by sending a copy of the summons and Complaint by certified  
9 mail to: (1) Office of Regional Chief Counsel, Region IX, Social Security Administration, 160  
10 Spear St., Suite 899, San Francisco, California 94105-1545; and (2) the Attorney General of the  
11 United States, Department of Justice, 950 Pennsylvania Avenue, N.W., Room 4400, Washington,  
12 D.C. 20530.

13           **IT IS FURTHER ORDERED** that the Clerk of Court shall issue summons to the United  
14 States Attorney for the District of Nevada and deliver the summons and Complaint to the U.S.  
15 Marshal for service.

16           **IT IS FURTHER ORDERED** that from this point forward, Plaintiff shall serve upon  
17 Defendant or, if appearance has been entered by counsel, upon the attorney, a copy of every  
18 pleading, motion or other document submitted for consideration by the court. Plaintiff shall  
19 include with the original paper submitted for filing a certificate stating the date that a true and  
20 correct copy of the document was personally served or sent by mail to the defendants or counsel  
21 for the defendants. The court may disregard any paper received by a judge which has not been  
22 filed with the Clerk, and any paper received by a judge or the Clerk which fails to include a  
23 certificate of service.

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1           **IT IS FURTHER ORDERED** that Plaintiff's Motion for Appointment of Counsel (ECF  
2 No. 4) is **DENIED**.

3           DATED: April 7, 2021

A handwritten signature in blue ink, appearing to read 'D. Albregts', is written over a horizontal line.

DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE